

Call to Order:

The meeting was called to order at 7:30 p.m. Present were Chair Zach Bergeron, members, Jay Doherty, Joan Duff, Ann Knowles and Associate Member Steve Pouliot; also present were Paul Materazzo, Director of Planning and Lisa Schwarz, Senior Planner.

Town Meeting Update:

Mr. Materazzo informed the Board that the Economic Development Council has held three public forums to facilitate public input on what residents would like to see in the area of the train station. Zoning language is being written to better develop the area and to bring the current zoning together in a more cohesive way. Mr. Bergeron asked what the next steps are. Mr. Materazzo stated that they would look at this more in depth at the next meeting. Once the article is completed and submitted, the public hearing process will begin. Greg Luckman of 13 Florence Street asked where he could get a draft of the article. Mr. Materazzo stated that once it is drafted it will be put on the Town's website and will also be available through the Planning Division.

Mr. Materazzo stated that through the streamline permitting effort the Town is trying to clarify rules for more predictable permitting. An article may be put forward to allow sit down and fast food restaurants by right in districts that now require a Special Permit from the Zoning Board of Appeals. The ZBA has never denied a Special Permit for these uses, so this would allow for uses already allowed in districts to not have to go through the ZBA process.

Mr. Materazzo noted that 7 out of 10 of the fastest growing jobs are in the health sector. A warrant article is being considered that would allow this use to expand to Industrial districts and Office Park districts.

Ms. Knowles asked why restaurants by right would not be included in the ID2 district. Mr. Materazzo noted that the ID2 District was just passed in 2013 and Mr. Doherty added that it should be left as it is because it has not yet been tested.

Fraser Drive Erosion Control Bond:

On a motion by Ms. Duff seconded by Ms. Knowles the Board approved the establishment of the Erosion & Stabilization Control Bond by the developer of Fraser Drive in the amount of \$5,800.00 pursuant to Condition # 33 of the Definitive Subdivision Approval. **Vote:** Unanimous (5-0).

Pine Forest Park Roadway Performance Guarantee Reduction:

On a motion by Ms. Duff seconded by Mr. Doherty the Board moved the performance guarantee for Pine Forest Park be reduced to \$87,300.00. **Vote:** Unanimous (5-0).

Minutes:

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to accept the minutes of October 14, 2014, October 28, 2014, November 16, 2014 and November 25, 2014 as submitted. **Vote:** Unanimous (5-0).

It should be noted that after the discussion on the meeting minutes Mr. Doherty left the meeting and did not return.

139-143 Elm Street and 26 Pine Street:

Mr. Bergeron opened the continued public hearing on an application filed by Capital Seniors Housing for a Special Permit for Elderly Housing for a 103 unit assisted living facility located at 139-143 Elm Street and 26 Pine Street.

Ms. Schwarz gave a summary of the proposed development and reviewed the last public hearing. She noted a topic brought up at the last meeting included the Conservation wetland delineation. The Conservation Director has written a letter to the Board stating that the Conservation Commission has issued an Order of Resource Delineation and no further filing is required. Tonight a presentation will be given by abutters, and the applicant's traffic engineer will review his report. The Town's Traffic Peer Reviewer will present her findings on the traffic study.

Mark Bernardin of 140 Elm Street gave a presentation in opposition to the project on behalf of himself and 27 residents. He questioned how many earth materials will be regraded, imported and exported during construction and suggested a peer review be conducted on the calculations. He stated that Special Permits are "bonus zoning" granted if the use provides a need. He noted that Section 7.4.3.1 of the Zoning Bylaw is a list of dimensional requirements and does not endorse development in a residential zone or allow a special permit.

Mr. Bernardin referenced case law which supporting a denial of the special permit. The MacGibbon case found that applicants are not entitled to special permits and the Gulf Oil Case stated that Boards have discretion to deny a special permit. The ACW Realty Management case stated that the courts shouldn't overturn a Board's decision based on discretion. He added that if the Planning Board denies the application, the applicant may sue, but a fear of being sued is not a reason to approve a permit.

Mr. Bernardin stated that the Master Plan talks about appropriately scaled developments and Section 7.4.1 of the Bylaw emphasizes preserving the Town's character in a manner harmonious with the surrounding land uses. In evaluating special permit applications, the only finding required of the Board is to determine if the development will be unreasonably detrimental to the character of the neighborhood.

Rob Ciampa of 53 Pine Street spoke for the group. He stated that this development doesn't fit into the character of the neighborhood, will bring health and safety risks, doesn't satisfy a community need, will have an impact on the environment and set a bad precedent. The building will be situated on a hill about 55-60ft above Elm Street with 24 hour lighting. This building would be the equivalent of twenty two 4,000 s.f. homes.

Mr. Ciampa stated that the development's shift changes will lead to speeding cars. It would include the addition of service vehicles such as large trucks and vans, EMT visits and support staff such as nurses and therapists. A stop light may have to be installed which would impact those trying to drive down Elm Street. He noted that other local facilities have availability and

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this facility would serve the Merrimack Valley. Environmental impacts may include stormwater and drainage issues as well as pollution caused by large idling diesel trucks.

Erica Guidoboni of Greenman-Pedersen, Inc. stated that she is a traffic engineer hired by the Town to perform a peer review on the applicant's traffic report. In her peer review she determines if the traffic report accurately projects impacts and if proper consideration has been made to the future planning horizon. The traffic report performed a safety analysis to industry standards and there are no concerns at the site with regards to capacity. The projected trips of the use do not have a noticeable impact on the Elm Street/Route 125 intersection at Merrimack College. She requested more information from the traffic engineer on the site distance to make sure there will be a safe egress on to Elm Street as well as backup information on the trip generation. There will be proper sidewalks and pedestrian access on the site. Ms. Knowles asked Ms. Guidoboni if it would be useful to look at some non-peak times such as the hours of school beginning and school release. Ms. Guidoboni stated that she can ask the traffic engineer to report on those times.

Ken Cram, P.E. of Bayside Engineering, the applicant's traffic engineer gave an overview of his traffic study. He stated that the stopping site distance was measured at the driveway location to determine if there is enough time for a car to stop for a typical scenario of a child running into the street after a ball. The intersection site distance is measured to see if a car pulling out of the driveway can see approaching cars to be able to safely pull out without slowing traffic down. The standard is to base this on the 85th percentile of speed of the volume of traffic on Elm Street. Traffic counts were taken with tubes or radar detectors which record the volume and speed of traffic. The calculations were based on 95th percentile of speed of the volume of traffic on Elm Street which made the calculations more conservative with a site distance of 400 ft + in each direction. The trip generation distribution was determined from the traffic flow in the area. There will be a sidewalk from the front of the building down one side of the driveway down to Elm Street which will be ADA compliant. There will not be a lot of heavy truck traffic, only one or two big trucks per week bringing the food supplies and some panel van type trucks.

Mr. Pouliot asked if the intersection of Elm Street and Route 28 was reviewed. Mr. Cram stated that it was not part of the study area. Mr. Pouliot stated that he would like to know how the whole corridor and neighborhood is affected including side streets that are used as cut throughs. Mr. Cram stated that the existing conditions at Pine and Elm Streets are a morning peak of 12 cars turning left onto Pine Street from Elm Street, 12 cars turning left from Pine Street onto Elm Street is 14 cars and turning right from Pine Street onto Elm Street with 440 cars continuing down Elm Street into town. The evening peak is 13 cars turning left onto Pine Street from Elm Street, 11 cars turning left from Pine Street to Elm Street, 21 cars turning right from Pine Street onto Elm Street and 417 cars continuing down Elm Street into town. Mr. Pouliot reiterated that he would like to see the entire neighborhood studied. Mr. Cram noted that if there cut through problem, it is a cut through problem today, and this project is creating very minimal traffic which is not expected to add to the existing problem.

Mr. Materazzo noted that the traffic engineer and the peer reviewer agree that the traffic created from this project will have a negligible impact on the corridor. Something to think about is

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traffic calming techniques that can be considered to improve the safety of the area. Ms. Guidoboni asked if Mr. Materazzo was referring to cutting down speeds or volumes. Mr. Materazzo stated that he was referring to any treatments along the roadway that could make the corridor safer. Ms. Knowles asked if there has been any movement on improvements to the Intersection of 125/114/Elm Street at Merrimack College. Mr. Cram noted that he recently spoke with John Gray, a traffic engineer with MassDOT. MassDOT has replaced pedestrian ramps as well as a signal controller so that the intersection is functioning as designed. Planned improvements will not improve capacity and the Merrimack Valley Planning Commission (MVPC) will undertake a corridor study of Route 114. Ms. Duff asked if a significant difference that can be made by adding paint to the pavement or some other tool. Mr. Cram stated that it depends on what is done. The road is already narrow and if you make the lanes narrower it may slow people down.

Mr. Bergeron asked Mr. Cram to elaborate on his process. Mr. Cram stated that he established a study area, and for this project it was four intersections and the proposed driveway with Elm Street. Then traffic counts were performed two days during the week, typically a Wednesday and a Thursday. The season was looked at and the numbers adjusted accordingly based on MassDOT standards. The future year conditions were then looked at with ½ % growth per year for 5 years with the growth rate confirmed by the MVPC. Recent traffic studies from other relevant projects were also incorporated. The Institute of Transportation Engineer's Trip Generation Manual was consulted for the land use and a calculation was made for traffic generation. Traffic flow in the area was analyzed to see how people are coming in and out of the area. Calculations were made to find the no build number, which is then used to generate the build number and all conditions were analyzed using a software package and standard methodology from the 2010 Highway Capacity Manual. The results were reported, and for this project, no serious negative impact was seen, so no mitigation measures were suggested.

Mr. Bergeron asked if the study was a snapshot in time projected out using the average season and factoring in growth patterns. Mr. Cram stated that he was correct. Ms. Duff asked how many trips an 11-12 lot subdivision would generate. Mr. Cram stated that this use is expected to generate around 314 daily trips; a 12-lot subdivision would generate roughly 120 trips. Mr. Pouliot asked how many trips 22 homes would generate as the abutter's presentation stated this was equivalent to twenty two 4,000 s.f. homes. Mr. Cram stated 22 homes would generate about 230 trips. Mr. Pouliot stated that he would like to see the study expanded to Route 28. Mr. Materazzo asked Ms. Guidoboni if it is common to extend a study area out so far. Ms. Guidoboni stated that it is not unreasonable, but she didn't think it was necessary because the traffic generated by this will be so small.

Bernice Downs of 147 Elm Street stated that she has lived in her home for sixty years and has noticed an increased in traffic over the years. There are historic homes in the area and this is no place for an assisted living facility of this size. She would welcome the addition of homes for everyone including the elderly but not this large complex.

David Silverstein of 26 Burton Farm Drive stated that during high traffic times, when it is backed up past Merrimack College, cars and trucks drive on the wrong side of Elm Street

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inviting a head on collision. The more traffic on Elm Street, the more people will be doing that. Mr. Silverstein asked Mr. Cram if he observed this practice. Mr. Cram stated that he witnessed it, and even had done it himself. Mr. Bergeron asked how many cars this project will be adding to the intersection and Mr. Cram asked for a few minutes to look that data up.

Christine Dillman of 121 Elm Street stated that she and others cut through Merrimack College to get to 114. She asked if there were any studies on how this will impact the safety of the students. Mr. Cram noted that at that intersection they are adding 13 cars in the a.m. peak to the current 3,900 cars. In the p.m. peak they are adding 20 cars to 4,400 cars. Ms. Dillman noted that adding an extra 5 seconds to an already 8 or 12 minute wait is a problem. Mr. Cram stated extra wait time is small compared to the existing wait, and the long existing wait is one reason why the intersection is being studied for improvements.

Laura Ciampa of 53 Pine Street asked for the dates of the traffic study and the Merrimack College traffic study. She added that Routes 114 and 125 have constant development that should be taken into consideration. Mr. Cram stated that the traffic study was performed on October 9, 2014, but he did not have the dates of the Merrimack College counts with him. He added that his firm did not produce the Merrimack College traffic study.

Jay Arbo of 14 Burton Farm Drive stated that people regularly use Walnut Street, Whittier Street and Pine Street as cut throughs and people even attempt to go down Burton Farm Drive which has no outlet. Based on the traffic alone the special permit should be denied because you shouldn't be able to add anything to an existing issue.

Brad Weeden of 5 Summer Street asked Mr. Cram where he got the information about truck deliveries. Mr. Cram stated that he got the information from Northbridge, the management company. Mr. Weeden asked if he had verified the information and Mr. Cram stated he had not. Mr. Bergeron asked what could be done to verify that information and Mr. Cram stated that he could perform a 24 hour count at another Northbridge facility.

Joe Hanafin of 14 Cheever Circle stated that he would like the traffic pattern to be expanded because kids walk and ride their bikes to Doherty Middle School and all over the neighborhood.

Christine Erickson of 109 Pine Street asked what the peak hours are and Ms. Guidoboni explained that they are 7 a.m. – 9 a.m. and 4 p.m. - 6 p.m. Ms. Erickson stated that traffic should be looked at on the evenings and weekends when people would be visiting their relatives.

Lucy Leung of 27 Burton Farm Drive stated that after work people pass her very fast on the right in the breakdown lane when she is trying to turn onto Burton Farm Drive from Elm Street. She added that her sister was rear ended at that intersection when someone tried to pass her. She feels that the only mitigation would be to provide a center turn only lane in either direction.

Linda Linderman of 4 Cedar Road asked for the traffic study to include Walnut Avenue which is a natural cut through to Route 28 and a secondary artery. Mr. Bergeron noted that he

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understands residents would like to widen the scope because there are a lot of cut throughs but all of the requests may not be reasonable.

Justine Stigman of 131 Elm Street stated that she is in support of the project but Andover needs to work on their traffic issues especially at the Elm Street/114/125 intersection.

Cathryn Neaves of 150 Elm Street asked how many more cars the Merrimack dormitory project will add and Mr. Cram stated that he did not have that number with him, but the Merrimack traffic is included in the total number.

Carl Mellin of 1 Johnson Road asked if it is customary to use one day for a traffic study. Ms. Guidoboni stated that one day is industry standard and required. She added that she doesn't see any reason to recount because the report is accurately predicting what is happening today.

Francesca Mellin of 1 Johnson Road asked if accident reports can be factored into the traffic study. Mr. Cram stated that generally 3 years of crash data is included in an analysis. For this report, 5 years of crash data from the Andover Police Department on Elm Street and 3 years of data from MassDOT for the 114/125/Elm Street intersection were analyzed, all of which is below significant. Between the years 2008 -2012 the 114/125/Elm Street intersection averaged 11 crashes a year, predominantly rear ends and angle collisions which is very common.

Paula Pinkney of 8 Tanglewood Way North asked if there is one access in and out of the facility onto Elm Street only, or will other streets be utilized. Mr. Bergeron answered that there will be one driveway and it will be accessed from Elm Street.

Greg Luckman of 13 Florence Street stated that Andover has not fully recovered from the 2008 recession. He added that if all downtown buildings become occupied it will exceed the factored growth rate.

Rob Ciampa of 53 Pine Street stated that traffic is being treated generically. Over a one year period Marland Place had 236 visits with multiple vehicles which was approximately 500 vehicles a year. He added 35% of the visits were between 10 p.m. and 8 a.m. That is neighborhood impact. Mr. Bergeron asked Mr. Cram if emergency vehicle traffic was factored into the report. Mr. Cram stated that it was included in daily calculation, based on the ITE use. Mr. Bergeron asked if there is an expected rate of daily emergency vehicle visits. Mr. Cram stated that it was something he would report back on.

Christine Erickson of 109 Pine Street asked if shift changes can be considered a peak in the expanded scope, and asked what the shifts would be. Mr. Cram stated that the shifts will be 7 a.m. – 3 p.m., 3 p.m. – 11 p.m. and 11 a.m. – 7 a.m. Ms. Guidoboni stated that they can follow up on non-standard peak hours of the shift changes.

Larry Stefani of 11 Burton Farm Drive stated that there is a bus stop at the intersection of Elm Street and Burton Farm Drive. He added that next year the whole area is being redistricted for

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the Bancroft Elementary School and the bus routes will be different which is something to consider.

Sally Seero of 2 Cheever Circle stated that shift changes taking place at the start of school is a disaster waiting to happen. Mr. Cram noted that there will be up to 40 employees on the 7 a.m. to 3 p.m. shift but there will be a lot less employees on the other shifts.

John Smolak, an attorney representing the applicant, suggested that the traffic engineers work to a consensus on the scope and to run it by Planning. He requested to briefly respond to the neighborhood presentation and report in on a meeting that was held last week.

Joe McElwee of Capital Seniors Housing, the applicant, responded to the neighborhood presentation. He stated the proposed building will be 35 ft to the midpoint of the road and 3 stories high which meets that Town's height requirement. Pedestrians on Elm Street will be 250 ft away from the portico side of the building and will not be able to see most of the building. Trees will be planted in front of the building, including fir trees for year round screening. The building has been realigned so that the 295 ft cross section will not be seen from Elm Street. There will be an extensive landscape plan for the entire property meeting or exceeding Town requirements. Mr. McElwee stated that CSH is committed to an expanded traffic scope to better satisfy residents. The property abuts a residential neighborhood as well as land owned by AVIS and Merrimack College. All requirements of the Zoning Bylaw will be complied with and best management practices will be implemented in regards to earth movement. Stormwater will be managed in compliance with MassDEP stormwater standards, with no impact to wetlands or buffer zones. He noted that Atria Marland Place has 127 units and is in the middle of a renovation so they naturally have vacancies. Brightview in North Andover is a 137 unit building with independent living and assisted living. It opened in the summer of 2013 and is not full. This size facility generally has a 30-36 month lease up. Other facilities in the area include Ashland Farms which opened in 1995 and the Edgewood Lifecare Community which opened in 1997, both in North Andover. The seniors in Town deserve a state of the art facility. Mr. McElwee stated that CSH has demonstrated a willingness to listen and adjust. The building proposed has 40% less units than the Bylaw allows, and the site is two times the minimum size needed for this use in the SRB zone. CSH will close off the exit to Pine Street and intends to donate permanently protected land to AVIS. The project will also provide affordable housing for seniors of Andover. Mr. Bergeron asked if they could provide renderings of the building from different viewpoints. Mr. McElwee stated that once their plans are finalized they will provide renderings from Elm Street.

Linda Linderman of 4 Cedar Road asked if any citizens were present at their meetings with AVIS and the different Town committees. Rob Ciampa of 53 Pine Street stated that he is a trustee of AVIS and he was aware of what is going on but he has recused himself from the meetings.

Jodee Gentile of 108 Pine Street asked if the pedestrian use of Pine Street can be looked at for the kids walking to school. Mr. Bergeron asked if any study could be done to capture that type

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of information and Mr. Materazzo stated that pedestrian use can be discussed with the Town's Public Safety Officer.

Chris Huntress of Huntress Associates, the developer's landscape architect, showed new renderings and graphics of the development. He noted that he had a meeting with Ms. Schwarz, members of the Preservation Commission and a member of the Design Review Board and tried to incorporate their feedback into the design changes. He showed an alternative orientation rotating the building 45° and moving it 10 ft further back from Elm Street. The portico share and main entry would now face Elm Street with the larger wings on the back of the site. He showed a rendering that they are working towards with a wraparound porch, gable roofs, lower eave heights and natural materials that is more residential in size and feel. He added that zoning would allow for 147 units and they will have 103 units, they will be providing 77% open space, conservation land will be donated to AVIS and there will be no vehicular access to Pine Street.

Mr. Pouliot asked if the site could be cut to make the building lower. Mr. Huntress stated that they are working on the height to make it more residential in scale, and part of that will be looking at grading. Joe McElwee added that they felt the wingspan impacted the neighborhood and that is why they proposed rotating it. Ms. Knowles asked if there was any consideration to dropping a story on the front and backloading it. Mr. Huntress stated that it is something they are looking at in the redesign, but it would come down to the measurement of height as to if it could be accommodated.

Lance Fromme of 23 Burton Farm Drive stated that he would like the water table and flooding to be added to the list of items. He noted that the building is not 35 ft, but 40 ft high with chimneys that are even higher.

Jay Arbo of 14 Burton Farm Drive stated that he can see the lights from Merrimack College events at his home, and asked for a lighting plan to be presented. Mr. Huntress noted that the applicant presented the lighting plan at the last meeting. He added that the lights at Merrimack College are 24 ft high, and the lights they are proposing are 12 ft high placed every 25 ft. It will be a way finding scheme, not lit up like a Christmas tree.

Nan Conte of 134 Elm Street asked for the Board to explain the entire process for approval or disapproval, what is the rating criteria, appeal process, the process of any other Boards that this has to go before and what the appeal process is for those Boards.

Myriam Ropiak of 20 Pine Street asked what part of the property will be given to AVIS. Mr. McElwee stated that AVIS has expressed interest in any excess land but the particulars have not been discussed.

David Silverstein of 26 Burton Farm Drive stated that there could be design changes and the final project will look a lot different from the approved project. He would like the developer to be required to post a seven figure bond to guarantee that what is approved will be built. Mr. Materazzo stated that any approval is also tied to approved plans. Any significant change to the plans would require the applicant to file for a modification with the Board.

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Chris Yates of 130 Elm Street asked for the Board to visit the site and the neighborhood. He noted that residents have a good idea of what the character of their neighborhood is, but there is no sense from the Board of what they feel.

Alex Vispoli of 7 Alison Way stated that the term detrimental to the neighborhood is subjective. He asked what the Board is going to take into effect, what is the process and what levels are they going to take it to. Mr. Bergeron noted that the Special Permit process is subjective and right now the Board is attempting to build what is fair and appropriate to be discussed. He added that the Special Permit procedures and process can be discussed in detail at the next meeting.

Bill Downs of 147 Elm Street stated that his house is 50 ft. from the lot line and his property goes 600 ft from Elm Street to the back property line. He is concerned that the building will be right in his backyard.

Mike Harvey of 7 Twin Brooks Circle stated that the approval by the Board is discretionary. He noted that in 2007 the College attempted to sell a piece of property to develop as a 40B, and their recent dorm project was developed under Dover with no way to stop it. He asked who the Board has to be fair and objective to, and if the developer is an equal party to neighbors because a lot of people will be affected by this project. Mr. Bergeron stated it is fair and appropriate for the applicant to have an opportunity to present to the Board. He added that the Board wants to hear feedback from the neighborhood both positive and negative that will help the applicant give the best proposal and for the Board to make a decision.

Bill Downs of 147 Elm Street stated that 10-12 years ago Merrimack tried to put football fields in the wetlands next to his house, and now this is being proposed. He added that he has no access to Elm Street except for his driveway and walk.

Matt Ciampa of 53 Pine Street asked what the developer thinks of the character of the neighborhood. Mr. Bergeron stated that at the last meeting the developer did show the residential character of the neighborhood through different homes in the area.

Teresa Morgan of 15 Shipman Road would like the developer to address signage at a future meeting. She is concerned about a lighted sign or billboard on Elm Street. She asked if there will be a local preference as the developer says that Andover needs this facility. She asked if residents would have to move out if they required more care or if they would be able to hire private healthcare workers who would add to traffic.

Christine Dillman of 121 Elm Street asked if there will be a restriction on future expansion on the property. She also asked if CSH has entered into an agreement for the 3rd lot owned by the Mayes. Mr. McElwee stated that they have no plans for expansion and they are not under contract with the Mayes for the 3rd lot. He added that the 15% affordable units will be reserved for Andover residents. A facility such as this will generally serve a population within 1-3 miles. Ms. Duff added that the Board often hears that there is a need for a elderly housing for residents who want to bring their parents closer to them.

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The Board determined that at their next meeting they would schedule a site visit and discuss the special permit procedures and process.

On a motion by Mr. Pouliot, seconded by Ms. Duff the Board continued the public hearing on 139-143 Elm Street and 26 Pine Street to January 27, 2015 at 7:45 p.m. **Vote:** Unanimous (4-0).

Adjournment: The meeting was adjourned at 10:00 p.m.